

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

NATIONAL FIRE & MARINE INSURANCE)	
COMPANY,)	
)	Civil Action No.: 06-97 (JJF)
Plaintiff,)	
)	
-against-)	
)	
ROBIN JAMES CONSTRUCTION, INC.,)	
)	
Defendant.)	

JOSEPH J. FARNAN, JR.
United States District Court Judge

ORDER

Plaintiff National Fire & Marine Insurance Company ("National Fire"), having moved this Court for an Order granting it summary judgment in the entirety on its claims for breach of contract, arising out of the failure of defendant Robin James Construction, Inc. ("Robin James") to pay National Fire outstanding audit-based premiums and corresponding surplus lines tax, due and owing under the terms of three (3) separate commercial general liability insurance policies, by Motion for Summary Judgment, dated December 1, 2006, with supporting affidavits of Lisa F. Joslin, dated December 1, 2006, and Linda Burton, dated November 30, 2006, and a Memorandum of Law, dated December 1, 2006,

AND, defendant having failed to respond to the motion, as required, on or before December 18, 2006,

AND, the Court, by Order dated January 11, 2007, having extended the time for

defendant to respond to the motion to January 19, 2007,

AND, defendant having failed to respond to the motion in accordance with the Court's Order,

AND due deliberation having been had thereon and good cause having appeared;

IT IS HEREBY ORDERED that plaintiff National Fire's motion for summary judgment is granted in its entirety; and

IT IS FURTHER ORDERED that plaintiff is awarded compensatory damages in the amount of \$230,659.74, plus pre-judgment interest pursuant to 6 Del. C. § 2301 at a rate of 5% over the Federal Reserve discount rate.

Dated:

Honorable Joseph J. Farnan, Jr.
United States District Court Judge

LAW OFFICES

WHITTINGTON & AULGUR

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February 5, 2007

Honorable Joseph J. Farnan, Jr.
U.S. District Court for the District of Delaware
844 North King Street, Room 4209
Lock Box 27
Wilmington, DE 19801

Re: National Fire & Marine Insurance Company v. Robin James Construction
Inc.
C.A. No. 06-97

Dear Judge Farnan:

The docket reflects that Plaintiff filed a Motion for Summary Judgment on December 1, 2006. The date by which the Defendant was to file an Answering Brief was December 18, 2006. Thereafter, the Court entered an Order on January 11, 2007 requiring an Answering Brief be filed no later than January 19, 2007. In light of the Defendant's failure to comply with this Order, enclosed please find a revised Order being submitted in connection with the Plaintiff's Summary Judgment Motion (D.I. 16), a copy of which is being served upon the Defendant.

Plaintiff respectfully requests the Court enter the accompanying Order. Should the Court have concerns, my co-counsel, Lisa Joslin and I are available at the Court's convenience.

Respectfully submitted,


Kristi J. Doughty

Encl.

cc: Eric Howard w/ encl. via facsimile and regular mail
Lisa Joslin w/ encl. via facsimile and regular mail

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

NATIONAL FIRE & MARINE)	
INSURANCE COMPANY,)	
)	
Plaintiff,)	C.A. No.: 06-97
)	
v.)	
)	
ROBIN JAMES CONSTRUCTION, INC.)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I, Kristi J. Doughty, hereby certify this 5th day of February, A.D. 2007 that one true copy of (revised) **Order for Summary Judgment** was delivered via electronic service, first class mail, and facsimile upon Defendant's counsel as follows:

Eric C. Howard
Wilson Halbrook & Bayard
107 West Market Street
P.O. Box 690
Georgetown, DE 19947

/s/ Kristi J.Doughty
Robert T. Aulgur, Jr. (No. 165)
Kristi J. Doughty (No. 3826)
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